



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,554	02/04/2000	James L. Winkler	03848-85586	8957
28315	7590	11/10/2003	EXAMINER	
BANNER & WITCOFF LTD., ATTORNEYS FOR AFFYMETRIX 1001 G STREET, N.W. ELEVENTH FLOOR WASHINGTON, DC 20001-4597			LUDLOW, JAN M	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 11/10/2003

28

Please find below and/or attached an Office communication concerning this application or proceeding.

CLD-28

Advisory Action

Applicant No.

09/498,554

Applicant(s)

WINKLER ET AL.

Examiner

Jan M. Ludlow

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 8 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 02 September 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see above.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

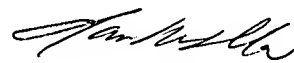
Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 48-147.

Claim(s) withdrawn from consideration: 148-207.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: attached interview summaries, 8/21/03, 9/17/03, 11/3/03



Jan M. Ludlow
Primary Examiner
Art Unit: 1743

Continuation of 2. NOTE: Limitations to ligands and individual locations are new issues. The examiner notes that the amendments and arguments appear to overcome the rejection of record, but that additional rejections may be suitable for the amended claims if entered. Specifically, Deeg 5338688 teaches forming an array with a printer, inherently spaced from a surface using 230 picoliter droplets at a density of 192x192 per square inch or 5714 per square centimeter (col. 6, lines 20-25, 64-65). Khrapko (DNA Seq, Vol. 1, pp.375-388) teaches forming an array by pipetting 1 nl drops (p. 387) and a density of 65,536 per 2.5cmx2.5cm square, or 10,486 per square centimeter (p. 386). Brennan 5474796 teaches forming an array of 10-10000 per square centimeter using 50 picoliter to 2 microliter (col. 2, lines 15-28, col. 6, lines 20-25) from a printer which may be formed as 64 nozzles per head with a common inlet (col. 7, lines 8-15). The parent application for Brennan supports this disclosure in that it discloses 50 micron spots separated by 6nm (p. 13). Gordon (EP0063810) teaches 100 micoliter volumes used to make dots, spots or lines (p. 10-11) at a density of 1000 per square centimeter (p. 32), but also teaches that the volume can be dispensed by electrostatic printing, and simialr printing techniques dispense droplets in the pl to nl range as discussed above. It is unclear whether the volume in the instant claims is the total volume per individual area, or if plural droplets may be applied to one spot. The examiner notes that rejections over Khrapko and Gordon were withdrawn in paper no. 20, but that a closer reading indicates that such withdrawl may have been in error.